

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**CORNELL SMITH,
Plaintiff,**

v.

Case No. 09-C-0404

**STEVEN SCHUELER, MARK MELCHER,
and RICK RAEMISCH,
Defendants,**

DECISION AND ORDER

Plaintiff Cornell Smith, who is incarcerated at Waupun Correctional Institution (WCI), filed a pro se complaint under 42 U.S.C. § 1983. In a decision and order dated February 25, 2010, I allowed him to proceed on an equal protection claim against defendants Melcher and Schueler and against defendant Raemisch in his official capacity. Plaintiff now presents several motions.

First, he moves for a default judgment. I will deny this motion as defendants have answered.

Second, plaintiff seeks an extension of time to pay \$24.00 that he owes to the United States Marshal. I have no authority to grant an extension regarding an invoice from the Marshal.

Third, plaintiff seeks to amend his complaint. I will grant plaintiff leave to amend. See Fed. R. Civ. P. 15(a). I will however, require him to submit a new amended complaint containing all of the claims he intends to pursue. As indicated in Civil L.R. 15(a) (E.D. Wis.), which I attached to my previous order, an amended complaint must reproduce the entire pleading as amended and may not incorporate any prior pleading by reference. This is

because an amended complaint supersedes the prior complaint, and thus the prior complaint is in effect withdrawn as to all matters not restated in the amended pleading. See Duda v. Bd. of Educ., 133 F.3d 1054, 1056 (7th Cir. 1998). Given plaintiff's clear intent to pursue his original claims against defendants, it would be inefficient at this time to screen his most recent proposed complaint. See 28 U.S.C. § 1915A. Thus, plaintiff must file a comprehensive amended complaint setting forth all of his claims against all defendants.

Therefore, for the foregoing reasons,

IT IS ORDERED that plaintiff's motion for default judgment (Docket #20) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff's motion for extension of time (Docket #22) is **DENIED**.

IT IS FURTHER ORDERED that plaintiff has leave to file an amended complaint on or before July 16, 2010. If plaintiff does not file an amended complaint by that date, I will screen the proposed complaint filed on June 15, 2010 without reference to his prior pleadings.

Dated at Milwaukee, Wisconsin this 23 day of June, 2010.

/s _____
LYNN ADELMAN
District Judge